IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT :

THE HONOURABLE MR. JUSTICE KURIAN JOSEPH

WEDNESDAY, THE 17TH JANUARY 2007 / 27TH PAUSHA 1928

WP(C).No. 17119 of 2003(K)

PETITIONER:

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1. R.KESAVA PILLAI, SENIOR ACCOUNTANT,
   ALAPPUZHA DISTRICT CO-OPERATIVE BANK LTD.,
   THRIKKUNNAPUZHA BRANCH.

2. M.NADEERUDEEN, SENIOR ACCOUNTANT,
   ALAPPUZHA DISTRICT CO-OPERATIVE BANK LTD.,
   CHOONAD BRANCH.

3. K.B.PRADEEP KUMAR, SENIOR ACCOUNTANT
   ALAPPUZHA DISTRICT CO-OPERATIVE BANK LTD.,
   NOORANAD BRANCH

4. K.SUDHAKARAN, SENIOR ACCOUNTANT,
   ALAPPUZHA DISTRICT CO-OPERATIVE BANK LTD.,
   EVENING BRANCH- KAYAMKULAM.

5. A.N.RAVEENDRAN PILLAI,SENIOR ACCOUNTANT
   ALAPPUZHA DISTRICT CO-OPERATIVE BANK LTD.,
   NOORANAD BRANCH.

BY ADV. SRI.K.SASIKUMAR

RESPONDENTS:

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1. ALAPPUZHA DISTRICT CO-OPERATIVE BANK
   REPRESENTED BY ITS GENERAL MANAGER, ALAPPUZHA.

2. JOINT REGISTRAR OF CO-OPERATIVE
   SOCIETIES, ALAPPUZHA.

3. REGISTRAR OF CO-OPERATIVE SOCIETIES,
   THIRUVANANTHAPURAM.

*ADDL.RESPONDENTS 4 TO 9 IMPLEADED:

4. R.KALAVATHY, SENIOR ACCOUNTANT
   ALAPUZHA DISTRICT CO-OPERATIVE BANK LTD.,
   EDATHUVA BRANCH

5. A.RAVEENDRAN NAIR, SENIOR ACCOUNTANT,
ALAPUZHA DISTRICT CO-OPERATIVE BANK LTD.,
MAVELIKKARA BRANCH

6. R.CHANDRAKUMAR, SENIOR ACCOUNTANT,
ALAPUZHA DISTRICT CO-OPERATIVE BANK LTD.,
KARUVATTA BRANCH, ALAPUZHA DISTRICT

7. T.K.JAGADAMMA, SENIOR ACCOUNTANT,
ALAPUZHA DISTRICT CO-OPERATIVE BANK LTD.,
VENMONY BRANCH, (VIA) CHENGANNUR

8. MOLLY GEORGE, SENIOR ACCOUNTANT,
ALAPUZHA DISTRICT CO-OPERATIVE BANK LTD.,
CHENGANNUR BRANCH

9. S.REMANI DEVI, SENIOR ACCOUNTANT
ALAPUZHA DISTRICT CO-OPERATIVE BANK LTD.,
CHENGANNOOR BRANCH

ADDL.R4 TO 9 IMPLEADED AS PER ORDER DT. 9-1-04 IN I.A.131/04 IN WP(C)17119/03.

BY ADV. SRI.T.R.RAMACHANDRAN NAIR,SC, ALP.DIST.
SRI.V.G.ARUN
SRI.T.R.HARIKUMAR

THIS WRIT PETITION (CIVIL) HAVING BEEN FINALLY HEARD ON 17/01/2007, THE COURT ON THE SAME DAY DELIVERED THE FOLLOWING:

ORDER ON I.A.NO.2319/2003 IN W.P(C)NO.17119/2003

DISMISSED

17-1-2007 SD/- KURIAN JOSEPH, JUDGE.

APPENDIX

PETITIONERS' EXHIBITS:

EXT.P1. TRUE EXTRACT OF CLAUSE 6 CATEGORY OF EMPLOYEES OF STAFF REGULATION OF THE ALLEPPEY DISTRICT CO-OPERATIVE BANK.

EXT.P2. TRUE COPY OF THE GOVERNMENT LETTER DATED 24-10-2001

EXT.P3. TRUE COPY OF THE MEMO DATED 3-5-2002 ISSUED BY THE 1ST RESPONDENTS

EXT.P4. TRUE COPY OF THE REPRESENTATION DATED 10-5-2003 SUBMITTED BY THE 1ST PETITIONER TO THE 1ST RESPONDENT.

EXT.P5. TRUE COPY OF THE RESOLUTION DATED 16-7-2003 ISSUED BY THE EXECUTIVE COMMITTEE OF THE 1ST RESPONDENT BANK.

EXT.P6. TRUE COPY OF THE PROCEEDINGS DATED 6-12-2003 ISSUED BY THE 3RD RESPONDENT.

ANNEXURE I. TRUE COPY OF THE RESOLUTION DATED 16-7-2003 ISSUED BY THE EXECUTIVE COMMITTEE OF THE 1ST RESPONDENT BANK.

ANNEXURE II. TRUE COPY OF THE PROCEEDINGS DATED 6-12-2003 ISSUED BY THE 3RD RESPONDENT.

/ TRUE COPY /

KURIAN JOSEPH, J.

W.P(C)No.17119 of 2003

Dated this the 17th day of January, 2007

JUDGMENT

The writ petition is filed with the following prayers:-

> i) to issue a writ in the nature of mandamus directing the respondent not to promote to the cadre of Chief Accountant/Branch Manager/Superintendent/Marketing Officer and above any unqualified persons in the feeder category by resorting to any relaxation of qualification so long as duly qualified sufficient number of candidates are available in that feeder category.
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> ii) to declare that any promotion to unqualified persons by resorting to relaxation of qualification following the provisions under Rule 185(8) of the Co-operative Societies Rules shall be made only in the event of non-availability of sufficient number of duly qualified persons in feeder category.

During the pendency of the writ petition Exts.P5 and P6 resolution and proceedings of the Society as well as the Registrar have also been issued. It is seen that this court has already disposed of a similar writ petition directing the parties to pursue the remedy of appeal under Section 83(2) of the Kerala Co-operative Societies Act, 1969. Therefore, without expressing any opinion as to the merits of the case, the writ petition is disposed of making it clear that in the event of the

petitioners pursuing the remedy as above within a period of two months from today, the same shall be treated to have been filed in time and thereafter, the appellate authority shall consider the matter and pass appropriate orders expeditiously with notice to the petitioners, respondent society and other affected employees if any. It will be open to the parties to take all available contentions before the appellate authority.

(KURIAN JOSEPH, JUDGE)

ahg.

KURIAN JOSEPH, J.

W.P(C)NO.17119/2003

JUDGMENT

17th January, 2007